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ABSTRACT

As one in a series of eight articles written by different professionals concerned with Alaska Native land claims, this article focuses on land use planning alternatives after December of 1976 when the configuration of Alaska lands will have been largely finalized under the Alaska Native Claims Settlement Act of 1972. While this particular booklet does not include vocabulary or questions, others in the series present both which are relevant to this article and are designed for an advanced secondary or adult level of education. The alternatives for future land use planning which are presented in this article include: (1) planning which will accomodate inevitable interrelationship between the functional aspects of land management (watershed, fish and game, natural resource, and recreational management); (2) creation of a single central agency to control all Federal land managment and regional planning efforts (to result in policy, planning, and budget coordination at the five-year, prior-year, and present year level); (4) increased responsibility for the Federal-State Land Use Planning Commission established under the Settlement Act; (5) utilization of the State of Alaska as the base for cooperative management so that Federal agencies would be partially responsible to State and borough planning powers. (JC)

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future land use planning alternatives for alaska

One of a Series of Articles on

THE NATIVE LAND CLAIMS

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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FUTURE LAND USE PLANNING ALTERNATIVES FOR ALASKA

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One of a Series of Articles on

THE NATIVE LAND CLAIMS

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JUNE 1975

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TO THE READER

This booklet is one of a collection of articles written by people who are interested in Native land claims. As you will see, all of the people do not agree. They present their ideas for you to read and discuss. You may be excited about some of their ideas because you think they are absolutely right, or very wrong. When you have finished reading the articles, you will probably have done a lot of thinking about Native land claims and Alaskan politics.

Politics is not an easy field to understand. And yet politics is what the Native land claims are all about. Most of the articles were written by people who have spent a lot of time working in the world of politics. These people have a whole vocabulary which most students have not yet learned. So, to help students understand the reading, there is at the beginning of each article a list of definitions of terms. Any words in *italics* are explained for you at the beginning of that article, or an earlier one.

At the end of some articles are questions which you can ask yourself. In the margin, next to the question are numbers. If you go back to paragraphs in the article with the same numbers, and reread, you can increase your understanding. We cannot say you will always have definite answers but you may form your point of view.

ARTICLES AND AUTHORS

Stock, Corporations, and the Native Land Claims Settlement	Stephen Conn Associate Professor of Law ISEGR, University of Alaska
Environmental Issues in the Land Claims	Guy Martin Alaska Legislative Aide to the Late Congressman, Nick Begich
New Tribes for New Times	Guy Martin Alaska Legislative Aide to the Late Congressman, Nick Begich
The Politics of Passage	Guy Martin Alaska Legislative Aide to the Late Congressman, Nick Begich
Politics and Alaska Natives	Harold Napoleon Director, Yupiktak Bista
Village Alaska	Harold Napoleon Director, Yupiktak Bista
Future Land Use Planning Alternatives for Alaska	Walter B. Parker Associate in Systems Planning Arctic Environmental Information and Data Center University of Alaska
Planning How to Use Land in Village Alaska	Bob Weeden Professor of Wildlife Management University of Alaska

FUTURE LAND USE PLANNING ALTERNATIVES

FOR ALASKA

Land planning in Alaska has come to be a synonym for regional planning. Seldom has regional planning, on such a scale and with such a time frame, been attempted anywhere prior to this time. The Alaska Native Claims Settlement Act mandated that a Joint Federal-State Land Use Planning Commission would be established to carry out certain aspects of the Act. Due to the amount of land involved, this commission has become in effect, a regional planning commission, but with advisory powers only. The true planning powers remain with the State of Alaska, incorporated municipalities, and the federal land owning agencies in Alaska.

The basic planning framework established in the State of Alaska by its constitution is better than that which exists in most of the other states. Failures of planning in Alaska can usually be attributed to lack of will on the part of its administrators and land owners rather than any institutional barrier to good planning.

The Alaska Statehood Act gave the state the right to select up to 103 million acres of the state's 375 million acre total. The land law statues developed by the state to govern the administration of its lands call for land to be classified for use *prior* to sale, a factor not yet present in the federal and many state land laws to the necessary degree. In addition, the state land laws required purchase of state lands with provisions that some development costs could offset the purchase price. This supposedly insured that land would not be taken up and held for speculation. But it has not worked to the degree it was hoped, since large quantities of state land in the Matanuska Valley have been bought by speculators and are being held by them. In the first 12 years of statehood (up until 1968), Alaska had selected only 21 million acres of its patrimony.

In 1968 the rest of the land was in federal ownership with the exception of less than one million acres in private holdings as a result of lands homesteaded under the Homestead Act, or those purchased from the state. Of the federal lands the great bulk, 272 million acres, was unreserved public domain under control of the Bureau of Land Management with 86 million acres under

control of the Forest Service. This 86 million acres is distributed as follows: Forest Service (20.7 million acres), Bureau of Sportfish and Wildlife (18.6 million acres), the Department of Defense (26.2 million acres), the National Park Service (6.9 million acres) and other withdrawals for power reserves and Natives amounting to 13.4 million acres.[1]

The planning function in the State of Alaska is centralized in the Office of the Governor in a Division of Planning and Research. This office is supposed to coordinate all planning of municipalities and the various state agencies. It accomplishes this function to the best of its ability but is chronically understaffed.

Alaska has made provisions for regional planning since its borough structure makes planning powers mandatory incorporated boroughs. Boroughs were required to exercise not only the regional planning function but also to take care of planning and zoning for the cities located within the borough structure. However, cities were permitted to retain their own zoning adjustment boards. The first borough was incorporated in 1962 and at present there are nine which occupy some 98,000 square miles or 17 percent of the state's land area which contain 260,000 (79percent) of the state's 330,000 population.

The rest of the state relies upon first class and second class cities to exercise local jurisdiction while the state Department of Community and Regional Affairs operates the planning function for the unorganized borough. The governing body for the unorganized borough is the state legislature.

As shown above, the Alaska statutes do provide for a reasonable structure from which coordinated planning can be accomplished. The missing ingredient is a means of coordinating planning for the federal agencies which still control the great bulk of the state's land. A vehicle once existed in the Federal Field Committee for Development Planning in Alaska, which was created after the Alaska earthquake in 1964, to coordinate relief and rehabilitation programs in the state. While this committee had no direct control over its member agencies, it was able to coordinate in major areas which cut across agency missions. The Alaska Native Claims Settlement Act was initially coordinated by the committee and it was responsible for the background data and early legislative efforts on that historic act. The Federal Field Committee was dissolved by executive order in 1971.

[1](U. S. Federal Field Committee for Development Planning in Alaska. Economic outlook for Alaska, Anchorage, Alaska, 1971, p. 52)

The Native Claims Settlement Act institutes land patterns in Alaska which will shape the state in every facet for the next several centuries. It distributes over a five-year period 40 million acres of land to private citizens on an ethnic basis and it provides for an additional 80 million acres of specially designated federal lands.

Thus, the configuration of Alaska by December 1976, when these designations will have been largely finalized, will resemble something of the following.

	(millions of acres)	
	1970	1976
State Land	27	103
Private Land	1	41
Federal Special Use	86	152
Total	375	375

The great unreserved federal public domain which every Alaskan and thus every American could look upon as his own will be reduced by two thirds. While it will be replaced in large part by public lands, these will be managed for particular purposes and the many uses which were permitted on unreserved lands will be prohibited. It is, in effect, the final passing of the great American dream of free land.

Recognizing the long term structures which would be created by the Settlement Act, Congress provided that the Joint Federal-State Land Use Planning Commission would function as advisory board to the State of Alaska, the Federal Agencies and the Congress during the period of implementation. The Commission is scheduled to self-destruct in December of 1976 under the terms of the Act.

The new problem which Alaska and the federal government must face is, "What type of system can be developed which will allow for functional management of the new joint land interests in Alaska?" There are several aspects of land management which must cross political boundaries if successful long term management is to be sustained. Some of the functional aspects of land management which must be incorporated in any regional plan to be successful are:

Watershed management
Fish and game management
Recreational management
Natural resource management

In addition, such governmental powers as police, public health, and transportation regulation must cross the boundaries imposed by the Claims Settlement if rational government is to be maintained in Alaska.

The four aspects of land management listed above were the subjects of a three-day seminar held in Anchorage in February of this year sponsored by the Southcentral Alaska Chapter of ASPA. These four areas were examined because they are of the greatest import overall in Alaska at present. While no outstanding new discoveries were made, the interrelationship of every aspect of land management was clear to most participants by the end of the third day. Some of the conclusions that were reached are summarized briefly here.

Watershed managers fall into two major categories; they are those who manage through regulation, and those who own the watersheds they manage. Their major objectives are: to insure a supply of pure water to input into water systems; to insure that discharges returned to the watershed do not exceed pollution control standards; and to control floods.

Fish and game managers are primarily concerned with maintaining healthy populations of animals, birds and fish. To accomplish this, they must maintain terrestrial and aquatic habitats that will support the various species on a continuing basis. To do this, they must have some say over uses which will have adverse effects upon habitat. Because fish and game populations are often cyclical, the need for habitat is a variable that requires flexibility in management.

Equally important is the provision of a suitable interface between man and those species which he hunts, fishes, looks at, and studies. To be successful in this area, access must be provided in some cases and restricted in others. This restriction of access is the most difficult part of fish and game management since wild species are often commonwealth property, as they are in Alaska, and intrusions against such property are difficult to regulate.

Recreation uses of land can have the highest impact of any use except strip mining or total urbanization. Land has a carrying capacity for various types of outdoor recreational use and zoning is probably necessary to insure that incompatible uses are not indulging in competition for land that can only support the one use. In this competition, the machine-oriented recreationist must win and since he requires larger amounts of land, has impact over a

wider area. Therefore, zoning normally follows the path of excluding such recreation or limiting it.

Although it seems that natural resource development has only recently come under intense criticism there has been throughout history a continuing dichotomy between man's desires to develop the land through exploitation at the expense of others and his desire to maintain his home environment relatively unchanged from the condition he is used to. Rock quarries and strip mines always required some degree of economic or governmental force to win grudging acceptance in their immediate neighborhood. The automobile and the large earthmoving machines that gave us the power to disrupt the land rapidly have pushed this always present tension to its present point.

Now, natural resource developers, being driven to the wall, are rapidly becoming advocates of regional planning - on their terms. They indulge in much discussion of alternative sources and of rehabilitation of disturbed lands. Essentially the resource developers still want as much freedom to explore and develop as they can gain from other uses.

The alternatives for cooperative management in Alaska for the future need through discussion now so that the framework for their implementation can be incorporated in one of the three land use planning bills presently before the Congress.

Recently, former Secretary of the Interior Hickel has again brought forward the proposal that all federal land management programs should be brought under one agency in order that fractionated management in the federal sector in Alaska could be avoided. This agency would, it is assumed, carry out the mandate of the Congress regarding national parks, wildlife refuges, national forests and other national priorities. Supposedly, more rational management of these missions would be created by having one management agency.

The result of this for the State of Alaska would be that it would have to deal with one *very* powerful agency rather than several who are just powerful. With all federal lands under one jurisdiction, the perception of a federal state within the State of Alaska would become even more pervasive than it is at present. While Alaska must deal now with the Secretary of Interior ultimately on most matters of federal lands, except for National Forests, there is a certain advantage for the state in fact that the Secretary must take

into account the competing interests of the various land management agencies in reaching his decisions and the state and local governments can work through any or all of these agencies in order to advance local positions.

If there are to be no specially designated lands and all federal lands are to be managed as general purpose lands then this proposal would have more validity. However, the whole concept of multiple use and general purpose land management is in such a quandary of defining its real aims at present that it would seem most perilous to create a new superagency with a role to manage all federal lands on such a basis.

Another alternative that has been discussed is to create a federal commission to coordinate federal land management and regional planning efforts. This would be, in effect, a resurrection of the Federal Field Committee for Development Planning in Alaska. This group would ideally form joint committees with state agencies in various areas to achieve cooperative planning. This is certainly a better alternative then the present Land-Use Planning Commission which is forced to adopt a regional planning coordination role to accomplish its more narrowly defined mission under the Native Claims Settlement Act. Such a commission could act as a focus for federal policy and would still allow the state and local governments the option of coordination directly with agencies when necessary.

Ideally, this commission would set up joint federal-state working groups in the functional areas of land management which would result in policy, planning and budget coordination at the five-year, prior-year and present-year level. It would allow the present structure to function but would put special demands upon it for coordination. The problem that would arise would be when these well-coordinated plans encounter the Congress and the state legislature and become subject to the desires of those bodies. This will be present in any system designed but a body structured like the old Federal Field Committee is especially vulnerable since it can only act through the budgets of its constituent members.

Another possibility is to continue the present joint Federal/State Land Use Planning Commission with some adjustments. The commission is presently composed of a federal co-chairman who is appointed by the President and a state co-chairman who is the Governor of Alaska. There are four federal and four state commissioners. The commissioners serve as needed for

approximately sixty days per year while the co-chairperson positions are full time. The Governor of Alaska has designated a person to serve in his stead.

The commission has, under the terms of the Native Claims Settlement Act, a special relationship to the Secretary of the Interior. The Commission is of an advisory nature only and must implement its policies through the Secretary of the Interior if they affect federal lands and through the Governor if state lands are at issue. Action must be taken through the Secretary on those lands designated for selection by Alaska's Natives.

The commission as it is presently structured serves the function of implementing the Settlement Act. It is forced into transportation studies and other areas because its decisions on land selections have such long ranging effects in all parts of the Alaskan social and economic structure. Because of its special relationship to the Secretary and the Governor it is difficult for the commission to coordinate functional management policies that involve other government agencies at the federal level.

New roles and relationships must be considered for the commission if it is to be continued past 1976. When it is no longer hampered by the structures of its enabling legislation, the Settlement Act, it will be possible to remove some of the present barriers to successful coordination and policy development.

If both state and federal commissioners were appointed for terms the commission would certainly acquire more independence in policy development. Appointment of federal commissioners by the President would give them more status with other departments of the federal government. The state government could have a co-chairman appointed in his own right serving at the pleasure of the governor and the federal co-chairman could continue to serve at the pleasure of the President. This would balance the independence of the commissioners and force the commission to truly coordinate its decisions with both the state and federal sector.

If the commission were to serve as advisor to the President rather than the Secretary of the Interior it would then have equal status with all federal departments and probably have an enhanced coordinative role. The commission would continue to rely upon federal and state agency support for most of the input to its planning system. This would require enough core staff to coordinate and synthesize this input for consideration by the

commission.

Another proposal has been that lead agencies should be designated in certain areas of land management. This is another variation of the last concept examined but much weaker and more difficult to maintain continuity through planning and budget cycles.

One final alternative to examine is for the State of Alaska to serve as the base for cooperative management. The state government would provide the statewide framework and the borough governments the regional focus. This alternative would require that federal agencies subordinate their authority in part to the state and borough planning powers, at least to the point where these bodies would have the right to review projected changes in federal land uses on the same basis as any zoning change. The Alaska state legislature passed a bill in this year's session which allows local government jurisdictions in Alaska to zone state lands and review their uses for compatibility with community planning goals. The same general thesis must be extended to federal lands if this alternative for cooperative planning is to work.

Plans are already being advanced by the state government and the Land-Use Planning Commission to develop six planning regions within the state based upon major hydrographic areas. Watershed management on the statewide scale could be accomplished by utilization of these districts. Special authorities would not be necessary if state jurisdication in this area continued to prevail as it presently does under Alaska law.

Fish and game management must cross political and geographic boundaries in order to be successful. Luckily there are no major problems with Canada at this time on species which migrate across the boundry, and most of Alaska's problems with terrestrial species are self-contained. Here, again, if state jurisdiction continues on its present basis, the framework for rational management will be present. The Alaska Department of Fish and Game is rapidly developing a statewide system of zones for game management within which the needs of National Parks and Wildlife Refuges can be accommodated. Essentially the plan calls for areas designed for highest quality hunting, areas for viewing only, areas designed to meet the subsistence needs of all Alaskans and scientific study areas.

Recreational management under this system would involve coordinating the needs of the National Parks Systems, the State of Alaska Parks Systems, private investors and local communities. Some small communities fear being deluged in a flood of tourists that might be generated by large federal investments in the new National Parks that will be created in Alaska in the next five years. Other communities will welcome such investments. The residents of Alaska fear that their own recreation needs will be derogated to meet the demands of tourism. Alaska is familiar with what has happened in the Caribbean and in Hawaii and does not care to repeat the experiences of other major vacation and recreation areas if possible.

However, many of us feel that this is not a real danger since the tourist normally follows the sun and we are not noted for that commodity. There is no reason why, if investments in recreation are coordinated so that one area is not overwhelmed with investments from all sectors, federal, state and private, while other areas are left with nothing, that successful management patterns cannot be developed. However, the future possible management pattern in this area is not so clear as in watershed and fish and game. The National Outdoor Recreation Plan assumes state leadership in this area but is somewhat nebulous about how this is to be accomplished. The Alaska Parks and Recreation Council has been created to provide a statewide coordinating agency and this concept includes local parks and recreation councils for local coordination. The council includes all federal and state agencies, local governments and citizens interested in recreation. However, it is still a nebulous concept and only two local councils have been established.

The problems which need to be worked out on a joint basis in achieving successful outdoor recreation patterns in Alaska are myriad. If such problems as whether federal lands should be available for private development, the role of mechanized recreation in an area, and the general impacts previously discussed are to be resolved, a more positive planning mechanism must be developed for outdoor recreation. The council system will work only if the federal and state agencies are forced to take formal cognizance of council actions. This is not presently the case.

It may be best that the boroughs serve as the focus for outdoor recreation planning and that this be treated as a part of the local planning function. If federal agencies had to secure local review and approval of land use changes, recreational uses would be included. The economic aspects of recreational

development and their impact upon communities are not well handled at the local level at present but receive at least as much attention as the federal and state agencies give them. Community self-interest must be counted upon to serve as a countervailing force one way or another in this regard.

The problems engendered by natural resource development on the scale which will be present in Alaska in the next decade cross state and national boundaries. The development of a United States, and, hopefully, a continental energy policy, will govern in large part the development of Alaska's oil, coal, and other mineral resources. The state will need all the help it can get from land use planning legislation at the national level to insure that good planning standards in other sectors are not sacrificed to real or apparent energy needs. The state will also need help in maintaining the position of its living natural resources to insure that their viability is not sacrificed to national energy goals.

It is now becoming apparent that many Alaskans are experiencing a surfeit of development. It may well be that national public and private interests will demand development of Alaska at a greater pace than its residents desire. Hopefully, the state will be able to retain a large say in the rate of development of its minerals and will not be forced by national policy to accept capital investments by multinational corporations larger than can be reasonably accommodated within the political structure of a state of 330,000 people.

The State of Alaska has been castigated by many because it has fought against large land areas being designated for special purpose national uses. This opposition has been brought about not so much by the projected land uses as by a natural fear of control by the federal agencies and the clients which control them. It is likely that Alaska will soon be castigated by those who wish to develop resources at a faster rate than is desired.

In any case, no matter what land use planning bills are eventually passed by the Congress, there must be within them some role for regional planning. In Alaska, the state framework is uniquely suited to the regional needs and if state and borough planning resources can be bolstered by the immediate future to a point where they can handle the constant flood of problems in every sector, it will probably work to the ultimate benefit of both the federal, state and private sectors. It is not a dramatic solution involving grand

new structures but it does fit the immediate political and economic realities of Alaska now. In a nation of 210 million, the national interest will always be served against local interests. The need is for a structure that will allow state and local governments to at least have the initial determination of their destiny and to insure that their problem will be heard by the Congress before the voices of the multinational corporations and large interest groups drown out all other dialogue.

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